

from the Administrator to remit payment to the applicant within 20 days of receipt. Because providers are already required to remit BEAR payments within a limited timeframe, and thus should not need to implement major billing system changes, this rule change, like other rule changes unless otherwise noted, will be effective upon publication in the **Federal Register**.

D. Appeals Procedure

38. *Deadline Extension* In the first four funding years of the school and libraries universal service support mechanism, twenty-two percent of all appeals to the Commission were dismissed as being untimely filed. In addition, the Administrator states that eighteen percent of all appeals filed with the Administrator for Funding Year 2001 were dismissed as being outside of the 30-day period. In light of this information, we sought comment on how to modify the current appeals procedures.

39. We agree with commenters that it is appropriate to increase the time limit for filing initial appeals with the Administrator and with the Commission to 60 days. Unlike many parties that typically practice before the Commission, many applicants in this program have no experience with regulatory filing processes. Thus the 30-day time period is often not adequate to allow potential petitioners to gather the documents and synthesize the arguments needed to file pleadings in order to challenge funding decisions. Commenters suggest that extending the filing period meets the goals of improving program operations and ensuring equitable distribution of benefits. Commenters suggest that given schools' and libraries' unique resource limitations, the extension of time for filing appeals will also provide applicants an opportunity to review the relevant decision and determine whether there are valid bases for appeal. We conclude that the time limit for filing an initial appeal with the Administrator and with the Commission should be extended to 60 days. We therefore amend § 54.720(a) through (d) of our rules.

40. *Postmark.* We also agree with commenters that we should treat appeals to the Administrator or the Commission as having been received on the date that they are postmarked rather than the date they are filed. Commenters note that this change would be consistent with other program filing deadlines. For example, such a change would make the appeal procedure consistent with the Administrator's practice of treating FCC

Form 471 applications as having been filed as of the postmark date. In cases where a postmark is unclear or illegible, the Commission will require the applicant to submit a sworn affidavit stating the date that the appeal was mailed. Given this possibility, we continue to encourage parties to file appeals electronically, in order to ensure timely submission. In addition, we agree with commenters that using the postmarked date furthers the goals of improving program operation and ensuring a fair and equitable distribution of the benefits of the program. Thus, we find that it is consistent with public interest that we treat appeals to the Administrator or the Commission as having been filed on the date they are postmarked. We therefore add a new § 54.720(e) to our rules.

41. *Docket Number Change.* We adopt a minor procedural amendment conforming our rules to reflect the change in docket numbers for filing appeals. Specifically, we change the wording of § 54.721, which describes the filing requirements for requests for reviews for the entire Universal Service program, to replace the last line of paragraph (a) as follows: instead of stating "and shall reference FCC Docket Nos. 97–21 and 96–45," the line shall read "and shall reference the applicable docket numbers." The docket number for schools and libraries appeals is CC Docket No. 02–6, and the docket number for Rural Health Care support mechanism appeals is WC Docket No. 02–60. Petitioners should reference these docket numbers when filing pleadings with the FCC.

E. Funding of Successful Appeals

42. *Discussion* Based on the record, we conclude that all successful appeals should be awarded discounts to the extent they would have been had the discounts been awarded through the normal funding process. We further conclude that the Administrator should not wait to grant post-appeal funding until all appeals have been decided, but should instead fund applications if and when they are granted. We further find it appropriate to adopt a rule that authorizes using funds budgeted for future funding years, if the Administrator-set appeals reserve is inadequate to award discounts to all successful appeals. We recognize that utilizing such funds will reduce the total amount of funding available in subsequent funding years. However, we believe that this result is necessary in order to assure that no applicants are prejudiced because they were awarded discounts through the appeal process

rather than through the initial application process.

43. The few commenters that addressed the use of funding from future years were mixed in their assessment. In particular, we disagree with commenters such as the Council of Chief State School Officers, who state that using funding budgeted for future years would penalize applicants in the next funding year. We conclude that the inequity of failing to award discounts for a timely appeal far outweighs the impact granting such appeals would have in reducing the overall available funding in future funding years. Indeed, any modest reduction in the total amount of funds budgeted for future funding years is equally distributed among all successful applicants. In contrast, the alternative imposes any shortfall on an individual applicant, who, after successfully appealing, has done nothing to merit the denial of funding. In balancing these outcomes, we conclude the more equitable solution is to spread the impact by using funds budgeted for future funding years, should the appeal reserve be exhausted. Consequently, we adopt a rule that authorizes USAC to use funds budgeted from subsequent funding years to fund discounts for successful appeals in the unlikely case that the appeals reserve is exhausted.

F. Suspension and Debarment

44. *Discussion.* We agree with the majority of commenters that we should adopt rules to prevent bad actors from receiving the benefits associated with the schools and libraries support mechanism. By prohibiting bad actors from involvement with the schools and libraries support mechanism, we will deter waste, fraud, and abuse, thus helping to ensure that support is used for schools' and libraries' access to advanced telecommunications and information services consistent with section 254. It is not our intention to use this debarment to punish. Rather, debarring applicants, service providers, consultants, or others that have defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism is necessary to protect the integrity of the program. We conclude that these debarment procedures are prudent and consistent with our goal of ensuring that the universal service support mechanisms operate without waste, fraud, or abuse.

45. We conclude that persons convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and